

REMARKS

This Amendment is being filed in response to the Office Action mailed February 13, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice. Further, the specification has been amended for better conformance to U.S. practice and to correct a certain informality.

By means of the present amendment, claims 1-10 have been amended for non-statutory reasons, such as for better form including beginning the dependent claims with 'The' instead of 'A', beginning the independent claims with 'A', and deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Such amendments to claims 1-10 were not made in order to address issues of patentability and Applicants

respectfully reserve all rights under the Doctrine of Equivalents.

In the Office Action, the Examiner objected to the drawings because the specification does not include reference numeral 78 shown in FIG 7. In response, the specification has been amended to include reference numeral 78. Applicants respectfully request withdrawal of the drawings objection.

In the Office Action, the Examiner objected to the specification for a certain informality. In response, the specification has been amended in accordance with the Examiner's suggestion. Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, claims 1 and 10 are rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite. Without agreeing with the Examiner, and in the interest of advancing prosecution, claims 1 and 10 have been amended to remove the alleged informality noted by the Examiner. It is respectfully submitted that the rejection of claims 1 and 10 has been overcome and an indication as such is respectfully requested.

In the Office Action, claim 11 is rejected under 35 U.S.C.

§101 as allegedly directed to non-statutory subject matter.

Without agreeing with the Examiner, and in the interest of furthering the prosecution and expediting allowance of the present Application, claim 11 has been amended for better form that more clearly recites statutory subject matter. It is respectfully requested that the rejection of claim 11 under 35 U.S.C. §101 has been overcome and withdrawal of this rejection is respectfully requested.

In the Office Action, claims 1-4, 7 and 9-11 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 7,058,852 (Sims) in view of U.S. Patent No. 6,314,235 (Gotoh). Further, claim 8 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sims and Gotoh in view of U.S. Patent Application Publication No. 2003/0191980 (Gotoh-980). It is respectfully submitted that claims 1-13 are patentable over Sims, Gotoh and Gotoh-980 for at least the following reasons.

At the outset, it is respectfully submitted that claims 5-6 are not rejected over any art of record. Accordingly, it is respectfully submitted that claims 5-6, as well as new claims 12-

13, are allowable over Sims, Gotoh and Gotoh-980 and an indication to that effect is respectfully requested.

Sims is directed to systems and methods to perform defect management to block addressable storage media. Instead of defining special areas for sparing, Sims uses two parameters that describe the spare areas, namely, a spare interval (SI) and a spare length (SL), which are selected or chosen by a user. (See column 6, line 19-28) As specifically recited on column 5, lines 48-50:

allocation of spare areas can be adjusted to accommodate these different needs at format time by selecting the parameters SI and SL accordingly. (Emphasis added)

Further, column 10, lines 16-18 also specifically recites that allocation "of spare areas can be allocated to accommodate these needs at format time when this invention is used." (Emphasis added) In addition, column 10, lines 16-18 also specifically recites that the "allocation of the data area to user data and spare areas is done only at format time, although this allocation may be altered again upon a subsequent format. (Emphasis added) Accordingly, such allocation of spare areas in Sims is NOT dynamic, but rather is done at format time.

Gotoh is directed to recording/reproducing method and device suitable for recording/reproducing audio/visual (AV) data. As shown in FIG 1, step A3 determines whether the recording is real time, and if addresses are read out with error in a sector, then an Error Correcting Code (ECC) block including the sector (with the error) is skipped, and the data is recorded from the leading sector in the following ECC block, as shown in steps A4 to A6, and recited on column 9, lines 17-21.

It is respectfully submitted that Sims, Gotoh, and combination thereof, do not teach or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 10 which, amongst other patentable elements, recites (illustrative emphasis provided):

defect management area reassignment means
for dynamically changing said assignment
information in dependence of the data type
recorded on the record carrier.

These features are nowhere taught or suggested in Sims and Gotoh, alone or in combination. At best, any such combination discloses to perform allocations at format time, and to skip a defective sector for recording on the following block. Gotoh-980

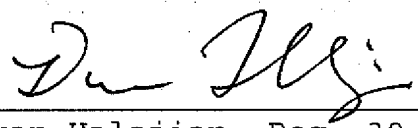
is cited to allegedly show other features and does not remedy the deficiencies in Sims and Gotoh.

Accordingly, it is respectfully submitted that independent claims 1 and 10 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-9 and 11-13 should also be allowed at least based on their dependence from independent claims 1 and 10.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
May 12, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101